

COUNTY OF LINCOLN

New Mexico Emergency Meeting Board of County Commissioners

Preston Stone, Chair
Dallas Draper, Vice Chair

Thomas F. Stewart, Member
Elaine Allen, Member
Lynn Willard, Member

Minutes Sunday, March 15, 2015

Minutes of the Emergency Meeting of the Lincoln County Commission held at 2:00 PM on March 15, 2015 in the County Commission Chambers, Lincoln County Courthouse, in Carrizozo, New Mexico.

1. Call to Order

Chair Stone called the Regular Meeting of the Board of County Commissioners to order at 1:59:46 PM.

2. Roll Call

Roll Call.

Present: Chair Stone, Commissioner Stewart, Commissioner Allen (telephonically), Commissioner Willard, Commissioner Draper.

Others present included Nita Taylor, County Manager; Alan Morel, County Attorney; and Rhonda Burrows, County Clerk.

3. Invocation

The invocation was presented by Commissioner Stone.

4. Pledge of Allegiance

- a. Pledge – US Flag
- b. Salute – NM Flag

5. Approval of Agenda

Motion: Accept the Agenda as presented, **Action:** Approve, **Moved by** Commissioner Draper, **Seconded by** Commissioner Stewart.

Vote: Motion carried by unanimous vote (summary: Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Willard, Commissioner Draper.

6. Consideration/Action: Recommendation from the County of Lincoln Board of County Commissioners to Governor Susana Martinez regarding a replacement for New Mexico Senator Phil Griego, District 39

Attorney Morel informed Senator Phil Griego of Senate District 39 resigned his position on March 14, 2015 with seven days remaining in the 2015 legislative session. Attorney Morel stated Chair Stone received a letter from Governor Susana Martinez dated March 14, 2015 requesting the Lincoln County Board of Commissioners invoke emergency meeting provisions for the purpose of submitting a nomination to fill the vacancy. Attorney Morel stated the Governor requested Lincoln County submit a nomination by 5:00 PM on March 15, 2015.

Attorney Morel stated upon receipt of the Governor's request an agenda was immediately prepared and forwarded by email to the public and press on March 14, 2015 in accordance with Lincoln County Open Meetings Resolution 2014-26.

Attorney Morel reported after the Notice of Emergency Meeting was published he received a threat of litigation alleging a violation of the requirement for a 72 hour notice prior to convening a public meeting.

Attorney Morel stated Lincoln County Resolution 2014-26 provided for a three hour notice to the public for emergency meetings to be convened only for unforeseen circumstances which demand immediate action to protect the health, safety and property of citizens or to protect the public body from substantial financial loss.

Attorney Morel suggested the Board of County Commissioners consider whether the request from the Governor as presented qualified under the language of Resolution 2014-26 as an emergency meeting. Attorney Morel stated the Governor identified the basis of qualification for an emergency meeting as being the disenfranchisement of the voters and residents of District 39. Attorney Morel noted should the vacancy of Senate District 39 not be filled quickly, there would be no representation for the voters of the district for the remainder of the legislative session.

Motion: Declare the March 15, 2015 Lincoln County Board of Commissioners Meeting as an Emergency Meeting for the purpose of submitting a nomination for Senate District 39 at the Governor's request, **Action:** Approve, **Moved by** Commissioner Willard, **Seconded by** Commissioner Draper.

Vote: Motion carried by unanimous vote (**summary:** Yes = 5).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Willard, Commissioner Draper.

SEE EXHIBIT A: Copy of letter from Governor Susana Martinez dated March 14, 2015 is attached hereto in reference thereto made a part hereof.

Chair Stone reported a number of individuals were seeking Lincoln County's nomination for the vacancy. Chair Stone stated those individuals in attendance would have an opportunity to speak for five minutes with a question and answer period to follow.

Bobbi Shearer, resident of Capitan, presented her request for the nomination and spoke of her qualifications including working as paralegal in Lincoln County for 20 years, serving as the Bureau of Elections Director under the current Secretary of State for the last four years, and an extensive history of working both for and with the NM State Legislature.

Tom Stewart, resident of Alto and current County Commissioner, provided background information including graduating from New Mexico State University, extensive military service and subsequent retirement as a Colonel from the US Army, and thirteen years of service as the Lincoln County Manager.

Nita Taylor, County Manager read a letter of request for nomination received from Jose Varela Lopez of Santa Fe County. Mr. Lopez provided a resume supporting his request to represent Senate District 39 primarily composed of rural precincts while collaborating with others to seek the most favorable result.

Dr. Brent Racher, resident of the Corona, requested consideration for nomination and commented on his history of work in New Mexico as a businessman and entrepreneur. Dr. Racher discussed the urgent need for adequate representation for Senate District 39 in the final days of the legislature.

Chair Stone requested any comments or questions from the public.

Nina Grunseth, Vice Chair of the Lincoln County Democratic Party expressed concern about the Emergency Meeting as not providing for adequate notice to the public and the potential loss of opportunity for other individuals to submit names for consideration.

Ms. Grunseth noted the contentious nature of the current legislative session and commented on the need for a better spirit of cooperation between parties. Ms. Grunseth questioned the potential nominees as to how they would address this issue and also what responsibility the nominee might assume for Senator Griego's constituents and his agenda.

Each potential nominee present was afforded opportunity to respond to Ms. Grunseth's questions with brief remarks.

Chair Stone questioned if it was appropriate for Commissioner Stewart to recuse himself from the vote.

After a general discussion of procedure, and a noted lack of precedence for the situation, it was agreed the County Clerk would prepare a ballot of all names submitted.

Chair Stone recessed the Emergency Meeting at 2:42:50 PM and reconvened at 2:55:50 PM.

Ms. Taylor reported upon further research an additional letter of interest from Michael Anaya of Santa Fe County was received by email. Ms. Taylor read Mr. Anaya's letter of request for the record. Attorney Morel stated as the email was received prior to the meeting being convened at 2:00 PM it was appropriate to add Mr. Anaya's name to the list of potential nominees.

Attorney Morel stated after further research of State Statute he found no specifics of process to select a nominee but it was clear the County should submit only one name for nomination. Attorney Morel clarified the process as a vote by ballot with Commissioner Allen participating telephonically to provide her vote to the County Clerk. Attorney Morel questioned if there were any objections to the process and hearing none suggested the ballots be prepared.

Commissioner Willard questioned if all potential nominees were legal residents of Senate District 39. Attorney Morel stated to the best of his knowledge and as per their individual statements they were residents of the senate district.

Commissioner Willard questioned if Mr. Stewart were nominated could he retain his current seat on the County Commission. Attorney Morel expressed belief the question was addressed by a similar situation when a prior Otero County Clerk ran successfully for a Senate seat and held both positions.

Rhonda Burrows, County Clerk distributed one ballot with the names of Bobbi Shearer, Thomas Stewart, Jose Varela Lopez, Brent Racher, and Michael Anaya to each Commissioner. Ms. Burrows read the ballot and recorded the vote of Commissioner Allen via telephonic communication.

Whitney Whittaker, Chief Deputy Clerk collected the ballots and conducted the hand tally with the assistance of Martha Proctor from the Republican Party and Nina Gruneth of the Democratic Party.

Ms. Burrows read the results of the vote for the record with Bobbi Shearer receiving two votes and Thomas Stewart receiving three votes.

Commissioner Willard requested clarification from Attorney Morel for the record as to whether it was appropriate for Commissioner Stewart to participate in the vote. Attorney Morel stated belief Commissioner Stewart was entitled to vote.

Motion: Submit the name of Thomas Stewart as the nominee for Senate District 39 from Lincoln County. **Action:** Approve, **Moved by** Chair Stone, **Seconded by** Commissioner Willard.

Vote: Motion passed (summary: Yes = 4, No = 1, Abstain = 0).

Yes: Chair Stone, Commissioner Stewart, Commissioner Allen, Commissioner Willard.

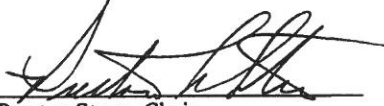
No: Commissioner Draper.

Attorney Morel stated the County Manager would prepare a letter and forward it to Governor Martinez prior to 5:00 PM pursuant to the request.

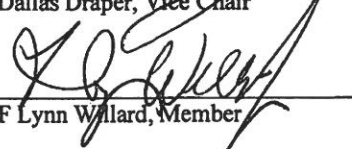
7. Adjournment

There being no further business to come before the Board of County Commissioners, Chair Stone adjourned the meeting at 03:12:05 PM.

County of Lincoln
Board of County Commissioners


Preston Stone, Chair


Dallas Draper, Vice Chair


F Lynn Willard, Member


Thomas Stewart, Member


Elaine Allen, Member

ATTEST:


Rhonda Burrows, County Clerk

April 21, 2015
Date Approved

